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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09-813,930	03-22-2001	Ellen Heber-Katz	00486.00006	1820

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EXAMINER

LACOURCIERE, KAREN A

ART UNIT	PAPER NUMBER
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1635

DATE MAILED: 01/22/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,930

Examiner

Karen A. Lacourciere

Applicant(s)

HEBER-KATZ, ELLEN

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 14-23 is/are rejected.
- 7) ☐ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

- 4) ☒ Interview Summary (PTO-413) Paper No(s). 9
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

On December 16, 2002, Applicant's representative called to indicate that the translation of the Italian reference applied in the prior Office action (mailed October 22, 2002) was not received and would be necessary in preparing their response.

In response to applicant's telephone call regarding the last Office action, the following corrective action is taken. The translation of the reference Corte et al. was faxed to Applicant's representative on January 1, 2003. A copy of the translation is also being mailed with the instant Office action.

The period for reply of 3 MONTHS set in said Office action is restarted to begin with the mailing date of this letter.

Applicant should note, the Office has corrected the submitted CRF of the sequence listing by deleting non-ASCII "garbage" at the end of files and has corrected the amino acid numbers for SEQ ID NO:2. No action is required on the part of the Applicant in regards to the sequence listing.

Election/Restrictions

Applicant's election without traverse of Group I and the species propylthiouracil in Paper No. 6 is acknowledged.

Claims 6-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

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Claims 3-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 16-19, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Corte, et al. (Gazz Med Ital Arch Aci Med, 1993, 152:149-153). The Reference Corte et al. was only available in Italian, with an English abstract, at the time this Office action was prepared, however, a translation has been requested and will be provided when it becomes available. Only the information provided in the English abstract of this reference is relied upon in this rejection.

Corte et al. disclose increasing healing of an ischemic heart in a human patient by administering propylthiouracil, after the ischemic injury occurred (see abstract). The abstract does not state that T3 and T4 levels are lowered, nor that re-epithelization occurs, however, since these properties are associated with PTU, and the method of Corte et al. comprises all of the steps of the instantly claimed method, this would be inherent to the methods disclosed by Corte et al.

Therefore, Corte et al. anticipates claims 1, 2, 16-19, 21 and 23.

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Claims 1, 2, 17-20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Alpert et al. (European Heart Journal (1984) 5 (supplement F) 3-11).

Alpert et al. disclose administering propylthiouracil to a WKY rat, prior to and concomitant to wounding the heart by removing myofibrils for use in vitro experiments. Removal of this tissue would fall within the scope of a surgical incision, a cut an abrasion and a tissue punch. Alpert et al. does not state that T3 and T4 levels are lowered or that re-epithelialization occurs, however, these properties are inherent to PTU and the methods disclosed by Alpert et al. comprise all of the steps of the instantly claimed methods, therefore, this would be inherent to the methods disclosed by Alpert et al.

Therefore, Alpert et al. anticipates claims 1, 2, 17-20, 22 and 23.

Claim Objections

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Lacourciere whose telephone number is (703) 308-7523. The examiner can normally be reached on Monday-Friday 8:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703) 308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 305-1935 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Karen A. Lacourciere
January 21, 2003

Karen A. Lacourciere
KAREN LACOURCIERE
PATENT EXAMINER